



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE 528-52

Re Application of:

SPRAGUE et al.

Art Unit: 3728

Application No. 09/458,132

Primary Examiner: Bryon P. Gehman

Filed: February 16, 2000

Re: VERI MAG PACK

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REQUEST FOR RECONSIDERATION OF FINALITY

To The Honorable Commissioner  
of Patents and Trademarks  
Washington, D.C. 20231

Sir:

Responsive to the Final Office Action dated March 6, 2001, the time to respond which is herein being extended to July 6, 2001, reconsideration is requested of the Examiner's decision to make the Official Action final. A substantive amendment that is fully responsive to the Interview (conducted on June 1, 2001) will be filed shortly and in advance of the July 6, 2001 due date. By this document, applicant seeks only reconsideration of the Examiner's decision to make the Official Action final.

In this most recent Official Action, the Examiner's primary basis for rejecting all of the added reissue claims 5, 7-11 and 13-14 was two-fold...

In Paragraphs 4-5. The Examiner rejected new claims 5, 7-11 and 13-14 as containing subject matter that is not supported by the original disclosure because these claims were directed to a "component part" of a disclosed embodiment and not a whole embodiment (reasoning that Fig. 4 of the application is not a standalone embodiment.)

In Paragraphs 6-7. The Examiner rejected new reissue claims 5, 7-11 and 13-14 as an attempt to recapture scope that was previously surrendered during the original prosecution.

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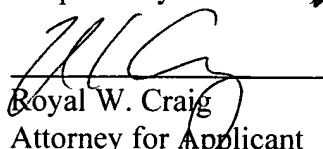
(reasoning that applicant had surrendered the subject matter of the new reissue claims during prosecution of the parent application.)

During the Interview conducted on June 1, 2001, applicants pointed out to the Examiner that the embodiment of Fig. 4 is indeed a standalone embodiment (as supported by language appearing at column 4, lines 12-16 of the present patent.) Moreover, it was further explained that the embodiment of Fig. 4 was never properly claimed during the original prosecution, and therein lies the reason for the present reissue proceeding. Inasmuch as it was never claimed or considered, the embodiment was never expressly or implicitly surrendered during the original prosecution. Moreover, the rules applicable to this reissue procedure do not foreclose applicant's ability to recapture subject matter that was originally disclosed, but that was inadvertently not claimed.

In light of the foregoing, then the Examiner's present grounds for rejection as set forth above were somewhat misplaced, and applicant's previous Amendment in no way *necessitated* these grounds for rejection as set forth in the present Office Action.

As discussed at the interview, applicant will shortly submit additional proposed claims that are drawn to Fig. 4, and which conform more closely to the original claims. Applicant seeks to have these new claims fully and fairly considered, free of the restrictions of a final Official Action. Consequently, the Examiner's issuance of a final Official Action is thought to be premature, and the applicant respectfully requests that the finality of the rejection be withdrawn.

Respectfully submitted, ✓

  
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Royal W. Craig  
Attorney for Applicant  
Reg. No. 34,145

Law Offices of Royal W. Craig  
210 N. Charles St.  
Suite 1319  
Baltimore, Maryland 21201